

ENTERED

March 21, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA

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§

§

VS.

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CRIMINAL ACTION NO. 7:23-cr-00199

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LUIS FABIAN VELA

§

ORDER

Came on to be considered Defendant Luis Fabian Vela's "Renewed Opposed Motion to Continue Sentencing and Extend Date for Objections to the PSR"¹ and "Motion for Leave to File Objections to the Presentence Investigation Report."² In the current motion to continue, defense counsel reiterates that she has not finished preparing the defense on this case, that Defendant was interviewed by probation after the PSR objections deadline had passed, and co-counsel is set for trial during the current sentencing date. The initial presentence report was prepared on November 29, 2023, and finalized on February 28, 2024, giving counsel almost four months to prepare for sentencing. As to the addendum to the PSR, as the Government noted, "the only information impacted in the presentence report by this interview was the Defendant's biographical information."³ A review of the Court's calendar reveals that co-counsel's trial was reset to begin on April 1, but is now set for re-arraignment on March 27, 2024, at 9:30 a.m. Thus, there is no reason why counsel cannot appear at the sentencing hearing in this case.

¹ Dkt. No. 74.

² Dkt. No. 75.

³ Dkt. No. 69 at ¶ 10a.

Defendant pleaded guilty to the Indictment on October 27, 2023, and a presentence investigation schedule⁴ was issued. The schedule ordered that the investigation and preparation of the pre-sentence report be completed by December 1, 2023; the deadline to file objections was December 15, 2023, and the final pre-sentence report was due by December 29, 2023. Defendant was set for sentencing on January 17, 2024.

On November 16, 2023, Defendant filed a motion for continuance of the presentence interview, the deadline to file objections and sentencing.⁵ The Court granted the motion⁶ and reset the deadlines: January 2, 2024, for the preparation and completion of the pre-sentence report; January 15, 2024, for the filing of objections; January 31, 2024, for the final pre-sentence report; and, February 13, 2024, for sentencing.

On January 10, 2024, Defendant filed a subsequent motion⁷ for continuance of the presentence interview, the deadline to file objections and sentencing, the motion was granted⁸ and the deadlines were once again reset: February 1, 2024, for the preparation and completion of the pre-sentence report; February 14, 2024, for the filing of objections; March 1, 2024 for the final pre-sentence report; and, March 27, 2024, for sentencing.

Thereafter, on March 12, 2024, Defendant filed his third motion for continuance of the presentence interview, the deadline to file objections and sentencing.⁹ The Court, after duly considering the motions, denied the same.¹⁰

The Court has not been given a reason to believe that the other co-counsel, who has been on this case since its inception, cannot handle the sentencing hearing. Defendant argues that

⁴ Dkt. No. 43.

⁵ Dkt. No. 53.

⁶ Dkt. No. 57.

⁷ Dkt. No. 61.

⁸ Dkt. No. 62.

⁹ Dkt. No. 68.

¹⁰ Dkt. No. 73.

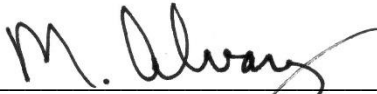
“requiring any defendant to object to a presentence report before the party at interest has even been interviewed . . .”¹¹ is an anomaly. Perhaps so, but as previously noted, “the only information impacted in the presentence report by this interview was the Defendant’s biographical information.”¹² The initial presentence report was prepared on November 29, 2023. Thus, Defendant has had ample time to respond.

Accordingly, the motion to continue sentencing is hereby **DENIED** and the “Motion for Leave to File Objections to the Presentence Investigation Report”¹³ is hereby **STRUCK** as moot.

Sentencing remains set for **March 27, 2024, at 2:00 p.m.**

IT IS SO ORDERED.

DONE at McAllen, Texas, this 21st day of March 2024.

A handwritten signature in black ink, appearing to read 'M. Alvarez', is written over a horizontal line.

Micaela Alvarez
Senior United States District Judge

¹¹ Dkt. No. 74 at ¶ 2.

¹² Dkt. No. 69 at ¶ 10a.

¹³ Dkt. No. 75.